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APPLICATION NO.	FIL	ING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,398 02/12/2002		David K. Mesecher	I-2-0111.1US	I-2-0111.1US 6229	
24374	7590	01/09/2004		EXAMINER	
VOLPE AND KOENIG, P.C. DEPT. ICC				PHU, PHUONG M	
UNITED PL	AZA, SUI	ГЕ 1600	1	ART UNIT	PAPER NUMBER
30 SOUTH 17TH STREET PHILADELPHIA, PA 19103				2631	8
				DATE MAILED: 01/09/2004	DATE MAILED: 01/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Application No. Application Application								
Examiner Phuong Phu 2031 - The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ② MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. - Extension of time may be available under the provisions of 37 CFR 1.138(a). In revent, however, may a reply be limely filled - If the pecified reply is appelled above, the meaninum standory paried will apply and will expens SK (b) MONTHS from the mealing date of this communication is the beauth thing (d) days, a reply which has deather the provisions of will apply and will expens SK (b) MONTHS from the mealing date of this communication. - If the pecified for reply is appelled above, the meaninum standory paried will apply and will expens SK (b) MONTHS from the mealing date of this communication. - If the pecified for reply is appelled above, the meaninum standory paried will apply and will expens SK (b) MONTHS from the mealing date of this communication. - If the pecified for reply is appelled above, the meaninum standory paried will apply and will expens SK (b) MONTHS from the mealing date of this communication. - If the pecified for reply is appelled above, the meaninum standory paried will apply and will expens SK (b) MONTHS from the mealing date of this communication. - If the pecified pecified the provision of the pecified pecified will apply and will reply an expense of the communication. - If the pecified pecified the pecified pecified on the pecified on the pecified will apply an expense of the pecified on the pecified will apply an expense of the pecified on the pecified will apply a pecified apply and the pecified will apply appl		Application No.	Applicant(s)					
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- The MAILING DATE of this communication appears on the cover sheet with the correspondence address - Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Estations of time may be available under the provisions of 3° CFR 1.31s(s). In no event, however, may a reply be timely filed stated or from many to be available under the provisions of 3° CFR 1.31s(s). In no event, however, may a reply be timely filed to the period for reply specified above. The maximum statedup prioris will apply end will expire \$100 MONTH (\$0) days will be considered timely. If the period for reply specified above is less than theny (30) days, a reply within the satulatory minimum or the mailing date of this communication. Finally shall be applied to the mailing date of this communication. Finally shall be applied to the mailing date of this communication. Finally shall be applied to the mailing date of this communication. Finally Seponsive to communication(s) filed on 11 December 2003. 20	Office Action Summary	Examiner	Art Unit					
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. - Extensions of sine may be available under the provisions of 37 CFR 1.35(s). In no event, however, may a reply be timely filed - Extensions of sine may be available under the provisions of 37 CFR 1.35(s). In no event, however, may a reply be timely filed - Extensions of sine may be available under the provisions of 37 CFR 1.35(s). The control of the provision of the above claim(s). - Status 1) Responsive to communication(s) filed on 11 December 2003. 2a) This action is FINAL.		L	1					
THE MAILING DATE OF THIS COMMUNICATION. Extensives of time may be available under the provision of 3°C FR 1.13(g). In no event, however, may a reply be timely filed after SIX (8) MCMTNS from the mailing date of this communication. **Provision of time may be available under the provision of 3°C FR 1.13(g). In no event, however, may a reply be timely filed after SIX (8) MCMTNS from the mailing date of this communication. **Provision of the provision of the mailing date of this communication.** **Fallure to reply within the set of extended profit of reply will, by stake, cause the application to become ARANCONED (35 U.S.C. § 133). **Any reply meeting by the set of extended profit of reply will, by stake, cause the application to become ARANCONED (35 U.S.C. § 133). **Any reply meeting by the set of extended profit of the provision of the communication, even if timely filed, may reduce any secured patent term adjustment. See 3°C OFR 1.794(b). **Status** **Provision of Claims** **Application is FINAL.** **Disposition of Claims** **Application of Claims*		ears on the cover sheet with the c	correspondence address					
2a) ☐ This action is FINAL. 2b) ☐ This action is non-final. 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) ☐ Claim(s) 1-7 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) ☐ Claim(s) 5-7 is/are allowed. 6) ☐ Claim(s) 1.2 and 4 is/are rejected. 7) ☐ Claim(s) 3 is/are objected to. 8) ☐ Claim(s) are subject to restriction and/or election requirement. Application Papers 9) ☐ The specification is objected to by the Examiner. 10) ☐ The drawing(s) filed on is/are: a) ☐ accepted or b) ☐ objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. §§ 119 and 120 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) ☐ All b) ☐ Some * c) ☐ None of: 1. ☐ Certified copies of the priority documents have been received. 2. ☐ Certified copies of the priority documents have been received in Application No 3. ☐ Copies of the certified copies of the priority documents have been received in Application No 3. ☐ Copies of the certified copies of the priority documents have been received. 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78. 3) ☐ The translation of the foreign language provisional application has been received. 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120	THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply - If NO period for reply is specified above, the maximum statutory period was precised to reply within the set or extended period for reply will, by statute, any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	36(a). In no event, however, may a reply be ting within the statutory minimum of thirty (30) day will apply and will expire SIX (6) MONTHS from cause the application to become ABANDONE	nely filed s will be considered timely. the mailing date of this communication. D (35 U.S.C. § 133).					
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DETAILED ACTION

1. This Office Action is responsive to the Amendment filed on 12/11/03.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1 and 2 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 7 of U.S. Patent No. 6,603,800. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 7 encompasses the limitations of claims 1 and 2 of the instant application.

Claim Rejections - 35 USC § 112

- 4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

 The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
- 5. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 recites the limitation "a chipping rate of the first spectrum signal is at least 80 ns". This limitation renders the claim indefinite because "at least 80 ns" is an open-ended range.

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Claim 4 recites the limitation "the timing difference is tracked with a precision of at least $1/16^{th}$ of a chip. This limitation renders the claim indefinite because "at least $1/16^{th}$ of a chip" is an open-ended range.

Allowable Subject Matter

- 6. Claims 5-7 are allowed.
- 7. Claim 3 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
- 8. Claim 4 would be allowable if rewritten to overcome the rejection(s) under 35
 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

9. Applicant's arguments filed on 12/11/03 have been fully considered.

The objections to Drawings and Specification are now withdrawn since the specification has been amended to overcome the objections.

Applicant's argument with respect to rejections to claims 1-7, under 35 USC 112, first paragraph, is render moot. The rejections are now withdrawn.

The rejections to claims 1-7, under 35 USC 112, second paragraph, are now withdrawn since claim 1 and 5 have been amended to overcome the rejections.

However, claims 1, 2 and 4 are deemed to be rejected with reasons set forth above in this Office Action.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuong Phu whose telephone number is 703-308-0158. The examiner can normally be reached on M-F (8:30-6:00) First Monday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mohammad Ghayour can be reached on 703-306-3034. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.

Phuong Phu Primary Examiner Art Unit 2631

Phung Phu 12/23/03

PHOUNG PHU PRIMARY EXAMINER